The Legislative Fiscal Division

Presents:

Profile of...

Office of Public Defender

State of Montana

Oct. 2008

This agency profile will discuss...

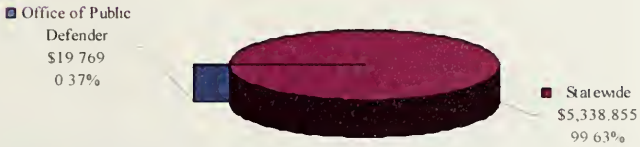
- structure and funding
- primary functions and
- historical expenditures

The profile also includes information on how decision makers can effect change in the agency's expenditures along with a listing of pertinent statistics. For an explanation of terms used in this profile, consult the "Background on the Agency Profiles" at: http://leg.mt.gov/css/fiscal/default.asp.

General Fund Statewide Comparison
FY 2008 (In Millions)

Let's begin by putting the agency's size in perspective by comparing it to state government as a whole.

Total Funds Statewide Comparison
FY 2008 (In Millions)



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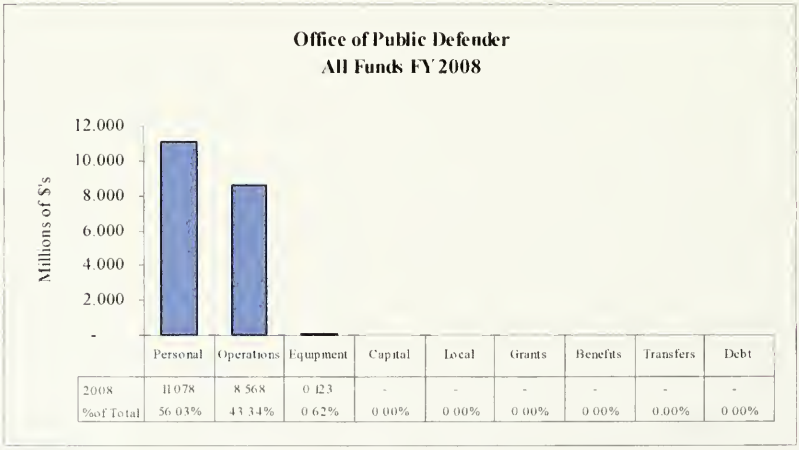
What the Agency Does

The Office of the Public Defender provides public defender (defense) services to indigent individuals (as defined in statute) involved in criminal and certain civil matters that may result in the person's loss of life or liberty if convicted. This agency also includes the Appellate Defender Office which handles cases that are appealed.

How Services Are Provided

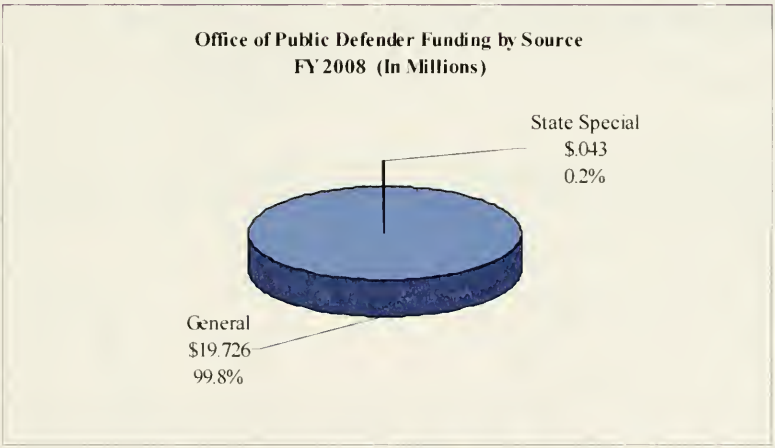
Services are provided by a combination of state employees and attorneys contracting with the state. In general, state employees provide services in populated geographic areas where the majority of the cases occur and contracted attorneys are used in less populated geographic areas. Contract attorneys may also be utilized in situations that create a conflict of interest for attorneys on staff.

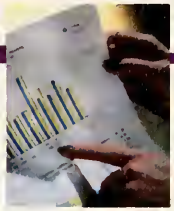


	Personal	Operations	Equipment	Capital	Local	Grants	Benefits	Transfers	Debt
2008	11.078	8.568	0.123	-	-	-	-	-	-
%of Total	56.03%	43.34%	0.62%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%

How Services are Funded

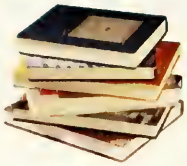
The Office of Public Defender is funded with general fund. SB 146, The Montana Public Defender Act, of the 2005 Legislature (codified in Title 46, MCA) established this new statewide system. Public Defender services were previously funded through the District Operations Program in the Judicial Branch or by local governments for courts of limited jurisdiction. The Montana Public Defender Act provided for a reduction in the entitlement share payments made to counties (15-1-121, MCA). This reduction in entitlement share payments partially offset the costs that were transferred to state responsibility from county and local governments July 1, 2006, the effective date of implementation of the statewide public defender system.



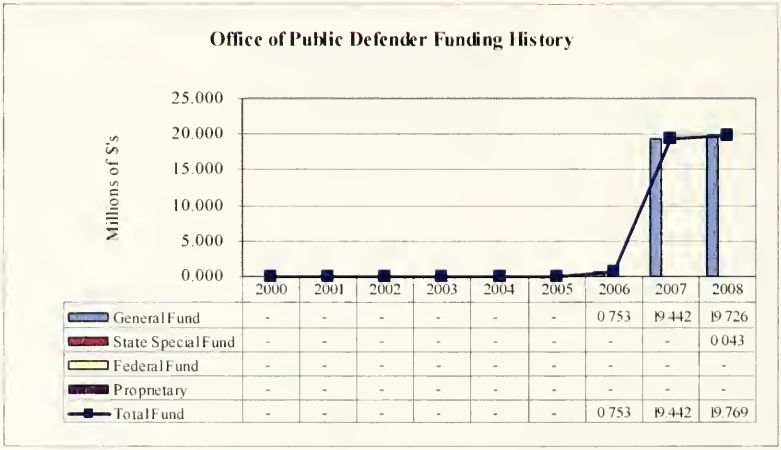


Related Data & Statistics

Element	*1998*	*2008*	*Significance of Data*
Number of new cases	Prior to current system	26,556 new cases only	Prior to July 1, 2006 (FY 2007) counties and local governments were responsible for provision of public defenders, consistent caseload data for the time period prior to the implementation of the statewide system is not available. Statute requires that caseload data be maintained and available in the future. Data presented here represents only new cases not total caseload



Expenditure History



	2000	2001	2002	2003	2004	2005	2006	2007	2008
General Fund	-	-	-	-	-	-	0.753	19.442	19.726
State Special Fund	-	-	-	-	-	-	-	-	0.043
Federal Fund	-	-	-	-	-	-	-	-	-
Propnetary	-	-	-	-	-	-	-	-	-
Total Fund	-	-	-	-	-	-	0.753	19.442	19.769

Reasons for Expenditure Growth/Change

A statewide system of public defender services was implemented July 1, 2006 (FY 2007) and includes appellate defender services that were previously administered by a separate state agency. The graphs and charts illustrate only expenditures for FY 2006 through 2008 for the new Office of Public Defender. FY 2006 includes only start-up and implementation costs of the new system. FY 2007 was the first full year of operation for the new statewide public defender system, including appellate defender services.

Agency Functions, State Purposes & Customers Served

The agency is structured to perform certain functions in support of general state government purposes.

The following lists the major functions, purpose of provision of the functions, and primary customers served.

State Purposes	Major Agency Functions	Customers
Consumer/Citizen Protection	Provision of legal services to defend individuals	Individuals meeting the program's statutory definition of indigence who are accused of crimes and/or certain civil proceeding that may result in the loss of life or liberty if convicted

How The Legislature Can Effect Change

In order to change expenditure levels and/or agency activity, the legislature must address one or more of the following basis elements that drive costs.

The legislature may impact the function of the statewide public defender system by:

- Assigning responsibility for funding and provision of services
- Changing the statutory framework that defines the public defender system
- Changing statutory provisions of criminal law
- Changing statutory provisions related to certain civil proceedings

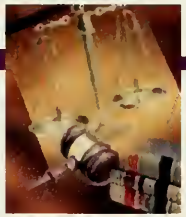
The largest categories of costs for the agency are personal services and contracted attorney services, actions that impact these items are likely to impact the system.

Statewide Factors with Impact

In addition to the factors above, a number of factors common to many agencies will also impact changes in expenditures over time.

The following factors may also impact the provision of public defender services:

- Constitutional guarantees of the right to counsel
- Litigation such as that asserting the Montana's system of public defender services was not adequate
- Social factors that influence the statutory definitions of a crime and related punishment
- Social factors that influence statutory provisions and public expectations related to certain civil actions such as child protective services and institutionalization of individuals suffering mental disease or defects



Statutory References

The primary statutory references defining duties and responsibilities of the department are found at the following locations.

Article I, Section 24 Montana Constitution
Title 47, Chapter 1, MCA

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